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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,588	02/11/2004	Yuri Itkis	5896.00025	4947
29747	7590	07/26/2004	EXAMINER	
QUIRK & TRATOS 3773 HOWARD HUGHES PARKWAY SUITE 500 NORTH LAS VEGAS, NV 89109			MENDOZA, ROBERT J	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/777,588

Applicant(s)

ITKIS ET AL.

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 57-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/11/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 57-63 and 65-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Franchi (USPN 5,770,533).**

Franchi, in FIGS. 1-17, col. 15:25-67 and col. 16:1-13, discloses a self-service dispenser for dispensing at least one portable gaming device including said dispenser being controlled by a computer, said gaming device receiving data from said computer while being housed in said dispenser, and said data enabling operation of said portable gaming device following dispensing of said gaming device from said dispenser. Franchi, in FIGS. 1-17, col. 15:25-67, col. 16:1-13, col. 17:51-67 and col. 18:1-67, discloses including a latch for securing said gaming device in said dispenser, said latch being released upon a predetermined event, and wherein said predetermined event is insertion of monetary consideration into said dispenser. Franchi, in FIGS. 1-17, col. 6:45-52, col. 8:35-40, col. 15:25-67, col. 16:1-13, col. 17:51-67 and col. 18:1-67, discloses wherein said dispenser receives from said portable gaming device an identification of said gaming device while said gaming device is housed in said dispenser. Franchi, in FIGS. 1-17, col. 6:45-52, col. 8:35-40, col. 15:25-67, col. 16:1-13, col. 17:51-67 and col. 18:1-67, discloses wherein said data includes a bingo card and wherein said data includes an encryption key. Franchi, in FIGS. 1-17, col. 15:25-67, col. 16:1-13, col. 17:51-67 and col.

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18:1-67, discloses wherein said gaming device includes a transceiver for wireless communication with said computer while being outside of said dispenser. Franchi, in FIGS. 1-17, col. 6:45-52, col. 8:35-40, col. 10:32-40, col. 15:25-67, col. 16:1-13, col. 17:51-67 and col. 18:1-67, discloses wherein said dispenser includes a bill validator for accepting monetary consideration in return for said gaming device and wherein said dispenser includes a card reader for reading a player club card. Franchi, in FIGS. 1-17, col. 6:45-52, col. 8:35-40, col. 10:32-67, col. 15:25-67, col. 16:1-13, col. 17:51-67 and col. 18:1-67, discloses wherein said dispenser includes a printer for printing a sales receipt and wherein said dispenser includes a barcode reader for reading barcodes on said sales receipt. Franchi, in FIGS. 1-17, col. 6:45-52, col. 8:35-40, col. 10:32-67, col. 15:25-67, col. 16:1-13, col. 17:51-67, col. 18:1-67 and col. 19:1-45, discloses wherein said dispenser maintains an account for at least one user of said gaming device, wherein said dispenser credits said account upon return of said gaming device to said dispenser. Franchi, in FIGS. 1-17, col. 6:45-52, col. 8:35-40, col. 10:32-67, col. 15:25-67, col. 16:1-13, col. 17:51-67 and col. 18:1-67, discloses wherein said dispenser refunds the balance of said account upon return of said gaming device to said dispenser.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Franchi in view of Miller et al (USPN 6,354,941).**

The disclosure of Franchi has been discussed above and is, therefore, incorporated herein. Franchi lacks in disclosing charging the gaming device battery while the gaming device is housed in the dispenser. Instead, Franchi discloses shutting off the portable gaming device using a power button when a player is not utilizing the portable gaming device (col. 16:30-32). Miller, in an analogous invention, teaches, in col. 3:45-56 and col. 4:32-67, a docking station comprising means for recharging a battery in each of the game boards, as well as means for providing a data communication path between the computer and the game boards. Miller teaches this feature with the intention of ensuring that a game board does not fail while being utilized by a gaming player (col. 3:45-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Miller into the disclosed invention of Franchi. One would be motivated to combine the teachings of Miller with the disclosed invention of Franchi in order to ensure that the portable gaming device does not fail or become inoperative while being utilized by a gaming player, and promote a positive gaming environment.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345.

The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, John Hotaling, can be reached at (703) 308-0780. The USPTO official fax number is (703) 872-9306.

RM

RM

July 22, 2004

JOHN M. HOTALING, II  
PRIMARY EXAMINER

